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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

INFINITY CAPITAL MANAGEMENT,

INC., dba INFINITY HEALTH

CONNECTIONS,

Debtor.

Case No. BK-S-21-14486- abl

Chapter 7

Hearing Date: March 30, 2023
Hearing Time: 9:30 a.m.

**DECLARATION OF GERALD M. GORDON IN SUPPORT OF MOTION TO SET ASIDE
ORDERS APPROVING SALES PROCEDURES AND APPROVING SALE**

I, Gerald M. Gordon, Esq., hereby declare under penalty of perjury under the laws of the United States of America and the State of Nevada as follows:

1. I am over eighteen years of age and am mentally competent. I am an attorney with the law firm of Garman Turner Gordon LLP (the "Firm"), which Firm is Nevada counsel to the Tecumseh – Infinity Medical Receivable Fund, LP ("Tecumseh") in the above-captioned adversary proceeding and related proceedings. As such, I have personal knowledge of the matters set forth herein and if called as a witness, could and would testify in accordance herewith.

2. I make this declaration in support of the *Motion to Set Aside Orders Approving*

1 *Sales Procedures and Approving Sale* (the “Motion”).¹

2 3. The Firm was retained by Tecumseh as Nevada counsel on December 8, 2021, and
3 filled it *Notice of Appearance and Request for Special Notice* on December 8, 2021 [ECF No.
4 153].

5 4. On or about the middle of December 2022, I was requested by Tecumseh to review
6 the various motions and other proceedings which occurred prior to our appearance in the Chapter
7 7 case as well as the pending adversary between HASElect and Tecumseh.

8 5. My review began with a review of the pleadings in the adversary matter, including
9 a review of the pertinent transactional documents between the Debtor and HASElect and the Debtor
10 and Tecumseh.

11 6. To have a better understanding of the Debtor and its pre-petition activities, I then
12 reviewed the transcript of the Rule 2004 Exam of Oliver Hemmers conducted on November 10,
13 2021, which examination was conducted prior to the Firm’s retention.

14 7. Beginning at page 110, line 22 through page 116, line 25, and page 121, line 24
15 through page 122, line 15. Mr. Hemmer’s testimony caught my attention in part because he
16 referenced consulting with two attorneys, Larry Oldham and Brooke Borg, regarding the “blanket
17 lien” of HASElect and Infinity’s ability to sell loans free and clear of the HASElect security interest.
18 This exchange stayed in my mind given the certainty of Mr. Hemmer’s belief that the transactions
19 with Tecumseh did not violate the HASElect security interest. A true and correct copy of this
20 excerpt from the 2004 Exam Transcript is attached hereto as Exhibit C.

21 8. Over the next week, I kept coming back to these excerpts but I did not reach any
22 conclusions as to its relevance.

23 9. However, on December 28, 2022, in a further review of the Second Amended &
24 Restated Loan and Security Agreement and the attached executed Form of Promissory Note, I
25 noted that the description of “Collateral” set forth in Section 4.1 of the Loan Agreement differed
26 from the description of “Collateral” in the Note.

27
28 ¹ All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

10. To determine the legal effect of this difference in scope of collateral, the impact on the various proceedings held before the Court and the orders entered related thereto, and remedies, the analysis proceeded through the first part of January, 2023. Once the course of action was determined, as counsel for Tecumseh we proceeded with due diligence to prepare the *Motion to Set Aside Orders Approving Sales Procedures and Approving Sale* and *Motion to Set Aside Order Abandoning Property of the Estate*.

I declare under penalty of perjury of the laws of the State of Nevada and the United States of America that these facts are true to the best of my knowledge and belief.

DATED this 6th day of February, 2023.

/s/ Gerald M. Gordon
GERALD M. GORDON, ESQ.